

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Jimmy L. Tucker,) C/A No. 8:12-954-JFA-JDA
)
 Petitioner,)
 vs.) ORDER
)
 Mildred L. Rivera, Warden of FCI Estill,)
)
 Respondent.)
)

The *pro se* petitioner, Jimmy L. Tucker, brings this action pursuant to 28 U.S.C. § 2241 challenging his entitlement to receive jail time credits. At the time of the filing of this action, he was incarcerated at the Federal Correctional Institution (FCI) in Estill, South Carolina.

The respondent filed a motion to dismiss and an order was issued pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) notifying petitioner of the summary dismissal procedure and possible consequences if he failed to adequately respond to the motion to dismiss. Petitioner did not respond to the motion.

The court then filed a second order on August 28, 2012, allowing the petitioner additional time to respond to the motion to dismiss. However, petitioner did not respond.

The Magistrate Judge assigned to this action¹ has prepared a Report and

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those

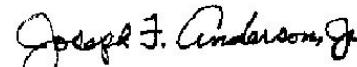
Recommendation wherein she suggests that this action should be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The petitioner was advised of his right to file objections to the Report and Recommendation which was entered on the docket on September 25, 2012. No objections, however, have been filed and the time to do so has expired.

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation proper and incorporated herein by reference. Accordingly, this action is dismissed with prejudice for failure to prosecute under Fed.R.Civ.P. Rule 41(b) and all outstanding motions are deemed moot.

IT IS SO ORDERED.

November 8, 2012
Columbia, South Carolina


Joseph F. Anderson, Jr.
United States District Judge

portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).